

and substituted cls. (A) to (D) for provision that the annual bonus be reduced pro rata for each day of a nuclear service year that an officer was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title.

Subsec. (e). Pub. L. 99-145, § 632(c)(3), substituted "October 1, 1990" for "October 1, 1987".

1980—Subsec. (a). Pub. L. 96-579, § 2(c)(1), substituted "\$6,000 for each nuclear service year ending before October 1, 1987" for "\$4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981".

Pub. L. 96-513, § 516(9)(A), substituted "title. However" for "title: *Provided, That*".

Subsec. (b). Pub. L. 96-579, § 2(c)(2), substituted "\$3,500 for each nuclear service year ending before October 1, 1987" for "\$2,400 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981".

Subsec. (d). Pub. L. 96-513, § 516(9)(B), substituted "Committees on Armed Services of the Senate and House of Representatives" for "House and Senate Armed Service Committees".

Subsec. (e). Pub. L. 96-579, § 2(c)(3), substituted as definition for "nuclear service year" any fiscal year beginning before Oct. 1, 1987 for the one-year period from Oct. 1, 1975, through Sept. 30, 1976, or any fiscal year beginning after Sept. 30, 1976, and before Oct. 1, 1981.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, § 624(d)(2), Oct. 5, 1999, 113 Stat. 654, provided that: "The amendments made by subsection (c) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to nuclear service years beginning on or after that date."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 624(c) of Pub. L. 105-85 effective Oct. 1, 1997, see section 624(d) of Pub. L. 105-85, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 632(d) of Pub. L. 99-145, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 2(d)(3) of Pub. L. 96-579 provided: "The amendments made by subsection (c) [amending this section] shall become effective on the first day of the first month following the month in which this section is enacted [December 1980]."

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Oct. 1, 1975, see section 5 of Pub. L. 94-356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

[§ 313. Repealed. Pub. L. 96-513, title IV, § 414(a), Dec. 12, 1980, 94 Stat. 2906]

Section, added Pub. L. 93-274, § 1(4), May 6, 1974, 88 Stat. 95; amended Pub. L. 94-273, § 43, Apr. 21, 1976, 90 Stat. 381; Pub. L. 96-107, title VIII, § 804(b), Nov. 9, 1979, 93 Stat. 812; Pub. L. 96-284, § 3(b)(1)-(5), June 28, 1980, 94 Stat. 590, 591, related to special pay for medical officers of the Public Health Service who execute active duty agreements.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1981 Amendment note under section 101 of Title 10, Armed Forces.

§ 314. Special pay or bonus: qualified members extending duty at designated locations overseas

(a) COVERED MEMBERS.—This section applies with respect to a member of an armed force who—

(1) is entitled to basic pay;

(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the continental United States that is designated by the Secretary concerned for the purposes of this section; and

(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year.

(b) SPECIAL PAY OR BONUS AUTHORIZED.—Upon the acceptance by the Secretary concerned of the agreement providing for an extension of the tour of duty of a member described in subsection (a), the member is entitled, at the election of the Secretary concerned, to either—

(1) special pay in monthly installments in an amount prescribed by the Secretary, but not to exceed \$80 per month; or

(2) an annual bonus in an amount prescribed by the Secretary, but not to exceed \$2,000 per year.

(c) SELECTION AND PAYMENT OF SPECIAL PAY OR BONUS.—Not later than the date on which the Secretary concerned accepts an agreement described in subsection (a)(4) providing for the extension of a member's tour of duty, the Secretary concerned shall notify the member regarding whether the member will receive special pay or a bonus under this section. The payment rate for the special pay or bonus shall be fixed at the time of the agreement and may not be changed during the period of the extended tour of duty. The Secretary concerned may pay a bonus under this section either in a lump sum or installments.

(d) REPAYMENT OF BONUS.—(1) A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall refund to the United States the unearned portion of the bonus. The unearned portion of the bonus is the amount by which the amount of the bonus paid to the member exceeds the amount determined by multiplying the amount of the bonus paid by the percent determined by dividing 12 into the number of full months during which the member performed the duty in the 12-month period.

(2) The Secretary concerned may waive the obligation of a member to reimburse the United States under paragraph (1) if the Secretary determines that conditions and circumstances warrant the waiver.

(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under the agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(e) EFFECT OF REST AND RECUPERATIVE ABSENCE.—A member who elects to receive one of the benefits specified in section 705(b) of title 10 as part of the extension of a tour of duty is not entitled to the special pay authorized by subsection (b)(1) for the period of the extension of duty for which the benefit under such section is provided.

(Added Pub. L. 96-579, §5(a)(1), Dec. 23, 1980, 94 Stat. 3366; amended Pub. L. 99-145, title VI, §641(a), Nov. 8, 1985, 99 Stat. 652; Pub. L. 105-85, div. A, title VI, §625(a)(1), Nov. 18, 1997, 111 Stat. 1794; Pub. L. 107-314, div. A, title VI, §654(b)(1), Dec. 2, 2002, 116 Stat. 2582; Pub. L. 108-136, div. A, title VI, §621(a)(1), (2)(A), Nov. 24, 2003, 117 Stat. 1505.)

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 105-85, which was approved Nov. 18, 1997.

AMENDMENTS

2003—Pub. L. 108-136, §621(a)(2)(A), substituted “qualified members” for “qualified enlisted members” in section catchline.

Subsecs. (a), (b). Pub. L. 108-136, §621(a)(1), substituted “a member” for “an enlisted member” in introductory provisions.

2002—Subsec. (a)(3). Pub. L. 107-314 substituted “the continental United States” for “the 48 contiguous States and the District of Columbia”.

1997—Pub. L. 105-85 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to special pay for qualified enlisted members extending duty at designated locations overseas.

1985—Subsec. (a). Pub. L. 99-145 substituted “\$80” for “\$50” in provision following par. (4).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 625(b) of Pub. L. 105-85 provided that: “Section 314 of title 37, United States Code, as amended by subsection (a), shall apply with respect to an agreement to extend a tour of duty as provided in such section executed on or after October 1, 1997.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 641(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

EFFECTIVE DATE

Section 5(c)(1) of Pub. L. 96-579 provided: “Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month following the month in which this section is enacted [Dec. 1980] and shall apply to periods of extended duty overseas beginning before, on, or after such date, but no payment may be made under such section for any month before the first day of the first month following the month in which this section is enacted.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411g of this title; title 10 section 705.

§ 315. Special pay: engineering and scientific career continuation pay

(a) In this section, the term “engineering or scientific duty” means service performed by an officer—

(1) that requires an engineering or science degree; and

(2) that requires a skill designated (under regulations prescribed by the Secretary of Defense for the armed forces, by the Secretary of Commerce for the National Oceanic and Atmospheric Administration, or by the Secretary of Health and Human Services for the Public Health Service) as critical and as a skill in which there is a critical shortage of officers in the uniformed service concerned.

(b) Under regulations prescribed by the Secretary concerned, an officer of a¹ uniformed service who—

(1) is entitled to basic pay;

(2) is below the pay grade of O-7;

(3) holds a degree in engineering or science from an accredited college or university;

(4) has been certified by the Secretary concerned as having the technical qualifications for detail to engineering or scientific duty;

(5) has completed at least three but less than nineteen years of engineering or scientific duty as an officer; and

(6) executes a written agreement to remain on active duty for detail to engineering or scientific duty for at least one year, but not more than four years;

may, upon acceptance of the written agreement by the Secretary concerned, be paid, in addition to all other compensation to which the officer is entitled, an amount not to exceed \$3,000 multiplied by the number of years, or monthly fraction thereof, of obligated service to which the officer agrees under the agreement. The total amount payable may be paid in a lump sum or in equal periodic installments, as determined by the Secretary concerned.

(c)(1) An officer who does not serve on active duty for the entire period for which he has been paid under subsection (b) shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made. Nothing in this subsection shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion by a regular officer of the total period of obligated service specified in an agreement under subsection (b) does not obligate the President to accept a resignation submitted by that officer.

(2) Subject to paragraph (3), and obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

¹ So in original. Probably should be “an”.